

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JEFFREY C. WILSON,

Plaintiff,

**6:13-cv-643
(GLS/ESH)**

v.

**COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

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MAGGIE W. MCOMBER, ESQ.

FOR THE DEFENDANT:

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**Gary L. Sharpe
Chief Judge**

MEMORANDUM-DECISION AND ORDER

I. Introduction

Plaintiff Jeffrey C. Wilson challenges defendant Commissioner of Social Security's denial of Disability Insurance Benefits (DIB), seeking review under 42 U.S.C. § 405(g). (Compl., Dkt. No. 1.) In a Report and Recommendation (R&R) filed June 12, 2014, Magistrate Judge Earl S. Hines recommended that the Commissioner's decision be affirmed. (Dkt. No. 17.) Pending are Wilson's objections to the R&R. (Dkt. No. 18.) For the reasons that follow, the court adopts the R&R in its entirety.

II. Background¹

On December 9, 2007, Wilson filed an application for DIB under the Social Security Act. (Tr.² at 121, 291-95.) After his application was denied, Wilson requested a hearing before an Administrative Law Judge (ALJ), which was held on January 5, 2010 and May 20, 2010. (*Id.* at 66-118, 144-48.) On July 28, 2010, the ALJ issued an unfavorable decision and found that Wilson was not disabled. (*Id.* at 123-37.) At Wilson's request, the Appeals Council remanded the decision to the ALJ to evaluate the severity and effects of Wilson's obesity and further evaluate the medical opinion

¹ The court incorporates the factual recitations of the parties and Judge Hines. (See generally Dkt. Nos. 10, 14, 17.)

² Page references preceded by "Tr." are to the Administrative Transcript. (Dkt. No. 8.)

evidence of record. (*Id.* at 140-41.) A second administrative hearing was held on February 29, 2012. (*Id.* at 28-53.) On March 9, 2012, the ALJ issued an unfavorable decision again denying the benefits. (*Id.* at 8-27.) That decision became the final decision of the Commissioner when the Appeals Council denied Wilson's request for review. (*Id.* at 1-6.)

Wilson commenced the present action by filing a complaint on June 5, 2013, seeking judicial review of the Commissioner's determination. (Compl.) After receiving the parties' briefs, Judge Hines issued an R&R recommending the Commissioner's decision be affirmed. (*See generally* Dkt. No. 17.)

III. Standard of Review

By statute and rule, district courts are authorized to refer social security appeals to magistrate judges for proposed findings and recommendations as to disposition. See 28 U.S.C. § 636(b)(1)(A), (B); N.D.N.Y. L.R. 40.1, 72.3(d); General Order No. 18. Before entering final judgment, this court reviews report and recommendation orders in cases it has referred to a magistrate judge. If a party properly objects to a specific element of the magistrate judge's findings and recommendations, this court reviews those findings and recommendations *de novo*. See *Almonte v.*

N.Y. State Div. of Parole, No. Civ. 904CV484GLS, 2006 WL 149049, at *3, *5 (N.D.N.Y. Jan. 18, 2006). In cases where no party has filed an objection, only vague or general objections are made, or a party resubmits the same papers and arguments already considered by the magistrate judge, this court reviews the findings and recommendations of the magistrate judge for clear error. *See id.* at *4-5.

IV. Discussion

Wilson purports to object to the R&R on four grounds. (*See generally* Dkt. No. 18.) He asserts that the ALJ failed to properly: (1) follow the treating physician rule; (2) evaluate his credibility; (3) assess the effects of his obesity; and (4) assess his need for an assistive device. (*Id.* at 1-4.) The substance of these arguments, however, was previously raised in Wilson's brief and considered and rejected by Judge Hines. (Dkt. No. 10 at 3-12; Dkt. No. 17 at 7-23.) Wilson's "objections," therefore, are general and do not warrant *de novo* review. *See Almonte*, 2006 WL 149049 at *4. The court, having carefully reviewed the record, finds no clear error in the R&R and accepts and adopts it in its entirety.

V. Conclusion

WHEREFORE, for the foregoing reasons, it is hereby

ORDERED that Magistrate Judge Earl S. Hines' June 12, 2014 Report and Recommendation (Dkt. No. 17) is **ADOPTED** in its entirety; and it is further

ORDERED that the decision of the Commissioner is **AFFIRMED** and Wilson's complaint (Dkt. No. 1) is **DISMISSED**; and it is further

ORDERED that the Clerk close this case; and it is further

ORDERED that the Clerk provide a copy of this Memorandum-Decision and Order to the parties.

IT IS SO ORDERED.

September 29, 2014
Albany, New York


Gary L. Sharpe
Chief Judge
U.S. District Court